

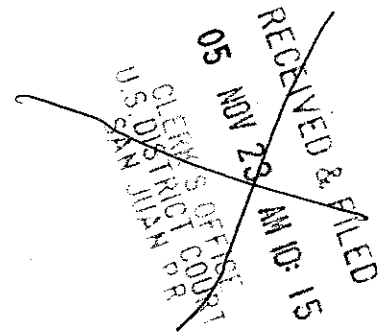
In The United States District Court  
For The District Of Puerto Rico  
San Juan Division

Nelson Cartagena-Merced,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

Case No. 97-00110 (JAF)

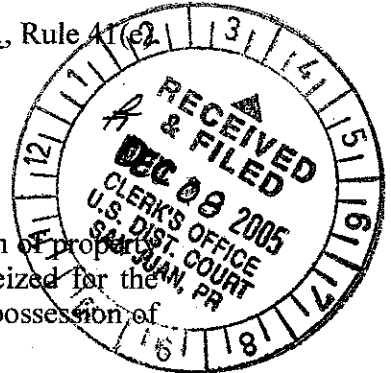


Motion For Return Of Property, Pursuant To Fed. Rules of Civ. Proc., Rule 41(e)

COMES NOW Nelson Cartagena-Merced (hereinafter the "Petitioner"), appearing PRO SE, and hereby presents his Motion For Return Of Property, Pursuant To Fed. Rules of Civ. Proc., Rule 41(e).

Fed. Rules Of Civ. Proc., Rule 41(e) states in pertinent part:

A person aggrieved by an unlawful search and seizure or by the deprivation of property may move the district court for the district in which the property was seized for the return of the property on the ground that such person is entitled to lawful possession of the property.



In the Instant Case, the Petitioner must show that 1) he is entitled to lawful possession of the property; (2) he would suffer irreparable injury if the relief is not granted; and (3) there is no adequate remedy at law for redress of his grievance. Mr. Lucky Messenger Service, Inc. v. United States, 587 F.2d 15 (7th Cir. 1978).

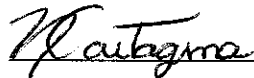
A duffel bag containing approximately \$2,500.00 (two thousand five hundred dollars) in U.S. funds was taken from the Petitioner's residence. In addition, an unknown amount was taken from his mother's residence and his sister's residence. A vehicle was also seized. The Petitioner initiated a suppression of evidence hearing in the District Court. At that hearing, it was determined that the vehicle in question could not have been purchased with the funds allegedly stolen in the bank robbery, and the vehicle was returned to the custody of the Petitioner. A sum of money belonging to one of the Petitioner's codefendants was returned to him, but as yet, no money has been returned to the Petitioner.

The money taken from the Petitioner and his family as specified above is in no way connected with any illegal activity. The Court has already addressed this issue, and found that the serial numbers of the money taken from the Petitioner's residence did not match the serial numbers of the money stolen. Since the referenced property is the lawful possession of the Petitioner; he has suffered an injury. The injury the Petitioner has suffered is the deprivation of his lawful property, which if not addressed, would cause a grave injustice.

Insofar as the Petitioner is aware, there is no other remedy at law by which he may seek return of this property. Therefore, a petition under Fed. Rules Of Civ. Proc., Rule 41(e) is appropriate in the Instant Case. Because this property is lawfully the Petitioner's, he therefore Moves that this Honorable Court enter an Order directing the return of the property under Fed. Rules Of Civ. Proc., Rule 41(e).

**WHEREFORE:** For the foregoing reasons and authorities, the Petitioner respectfully requestst that the Court **GRANT** his Motion for return of property.

Respectfully Submitted,



Nelson Cartagena-Merced, PRO SE  
Reg. No. 14834-069 Granville-B  
Low Security Correctional Institution  
P.O. Box 999  
Butner, NC 27509-0999

In The United States District Court  
For The District Of Puerto Rico  
San Juan Division

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Petitioner,

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UNITED STATES OF AMERICA,  
Respondent.

Case No. 97-00110 (JAF)

Certificate Of Service

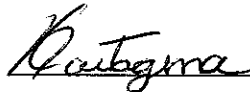
I, Nelson Cartagena-Merced, PRO SE, the Petitioner herein, hereby certify that on this \_\_\_\_ day of November, 2005, a true and correct copy of the foregoing Motion For Return Of Property, Pursuant To Fed. Rules of Civ. Proc., Rule 41(e) was delivered to Prison Authorities for mailing to the parties below, by placing same in an envelope with first-class postage prepaid affixed thereto, and addressing to:

United States District Court  
150 Carlos Chardón Ave.  
San Juan, Puerto Rico 00918

Assistant United States Attorney  
Timothy Faerber, Esq.  
Federal Office Bldg., Room 452  
150 Carlos Chardón Ave.  
San Juan, Puerto Rico 00918

I hereby swear under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_\_ day of November, 2005.

Respectfully Submitted,



Nelson Cartagena-Merced, PRO SE  
Reg. No. 14834-069 Granville-B  
Low Security Correctional Institution  
P.O. Box 999  
Butner, NC 27509-0999